

FUNCTIONS AND PRIVILEGES OF CONSULAR OFFICERS

Convention signed at Versailles November 14, 1788

Senate advice and consent to ratification July 29, 1789

Ratified by the President of the United States September 9, 1789

*Ratified by France*¹

Ratifications exchanged at Paris January 6, 1790

Entered into force January 6, 1790

Proclaimed by the President of the United States April 9, 1790

*Declared abrogated by Act of Congress approved July 7, 1798*²

8 Stat. 106; Treaty Series 84³

CONVENTION BETWEEN HIS MOST CHRISTIAN MAJESTY AND THE UNITED STATES OF AMERICA, FOR THE PURPOSE OF DEFINING AND ESTABLISHING THE FUNCTIONS AND PRIVILEGES OF THEIR RESPECTIVE CONSULS AND VICE CONSULS

[TRANSLATION]

His Majesty the Most Christian King and the United States of America, having, by the twenty-ninth article of the Treaty of Amity and Commerce⁴ concluded between them, mutually granted the liberty of having, in their respective states and ports, consuls, vice consuls, agents, and commissaries, and being willing, in consequence thereof, to define and establish, in a reciprocal and permanent manner, the functions and privileges of consuls and vice consuls, which they have judged it convenient to establish of preference, His Most Christian Majesty has nominated the Sieur Count of Montmorin, of St. Herent, Maréchal of his Camps and Armies, Knight of his Orders and of the Golden Fleece, his Counselor in all his Councils, Minister and Secretary of State and of his Commandments and Finances, having the Department of Foreign Affairs; and the United States have nominated the Sieur Thomas Jefferson, citizen of the United States of America and their Minister Plenipotentiary near the King; who, after having communicated to each other their respective full powers, have agreed on what follows:

¹ For a discussion of the date on the French instrument of ratification, see 2 Miller 242.

² 1 Stat. 578. See footnote 1, *ante*, p. 763.

³ For a detailed study of this convention, see 2 Miller 228.

⁴ TS 83, *ante*, p. 773. Art. 31 became art. 29 after the suppression of arts. 11 and 12.

ARTICLE 1

The consuls and vice consuls named by the Most Christian King and the United States shall be bound to present their commissions according to the forms which shall be established respectively by the Most Christian King within his dominions and by the Congress within the United States. There shall be delivered to them, without any charges, the exequatur necessary for the exercise of their functions; and on exhibiting the said exequatur, the governors, commanders, heads of justice, bodies corporate, tribunals, and other officers having authority in the ports and places of their consulates, shall cause them to enjoy, immediately and without difficulty, the pre-eminences, authority, and privileges reciprocally granted, without exacting from the said consuls and vice consuls any fee under any pretext whatever.

ARTICLE 2

The consuls and vice consuls, and persons attached to their functions, that is to say, their chancellors and secretaries, shall enjoy a full and entire immunity for their chancery and the papers which shall be therein contained. They shall be exempt from all personal service, from soldiers' billets, militia, watch, guard, guardianship, trusteeship, as well as from all duties, taxes, impositions, and charges whatsoever, except on the estate, real and personal, of which they may be the proprietors or possessors, which shall be subject to the taxes imposed on the estates of all other individuals; and in all other instances they shall be subject to the laws of the land as the natives are.

Those of the said consuls and vice consuls who shall exercise commerce shall be respectively subject to all taxes, charges, and impositions established on other merchants.

They shall place over the outward door of their house the arms of their sovereign; but this mark of indication shall not give to the said house any privilege of asylum for any person or property whatsoever.

ARTICLE 3

The respective consuls and vice consuls may establish agents in the different ports and places of their departments where necessity shall require. These agents may be chosen among the merchants, either national or foreign, and furnished with a commission from one of the said consuls. They shall confine themselves respectively to the rendering to their respective merchants, navigators, and vessels, all possible service, and to inform the nearest consul of the wants of the said merchants, navigators, and vessels, without the said agents otherwise participating in the immunities, rights, and privileges attributed to consuls and vice consuls, and without power, under any pretext whatever, to exact from the said merchants any duty or emolument whatsoever.

ARTICLE 4

The consuls and vice consuls respectively may establish a chancery where shall be deposited the consular determinations, acts, and proceedings, as also testaments, obligations, contracts, and other acts done by or between persons of their nation, and effects left by deceased persons or saved from shipwreck.

They may consequently appoint fit persons to act in the said chancery, receive and swear them in, commit to them the custody of the seal and authority to seal commissions, sentences, and other consular acts, and also to discharge the functions of notary and register of the consulate.

ARTICLE 5

The consuls and vice consuls respectively shall have the exclusive right of receiving in their chancery, or on board of vessels, the declarations and all other the acts which the captains, masters, crews, passengers, and merchants of their nation may choose to make there, even their testaments and other disposals by last will; and the copies of the said acts, duly authenticated by the said consuls or vice consuls under the seal of their consulate, shall receive faith in law, equally as their originals would, in all the tribunals of the dominions of the Most Christian King and of the United States.

They shall also have, and exclusively, in case of the absence of the testamentary executor, administrator, or legal heir, the right to inventory, liquidate, and proceed to the sale of the personal estate left by subjects or citizens of their nation who shall die within the extent of their consulate; they shall proceed therein with the assistance of two merchants of their said nation, or for want of them, of any other at their choice, and shall cause to be deposited in their chancery the effects and papers of the said estates; and no officer, military, judiciary, or of the police of the country, shall disturb them or interfere therein in any manner whatsoever. But the said consuls and vice consuls shall not deliver up the said effects nor the proceeds thereof, to the lawful heirs, or to their order, till they shall have caused to be paid all debts which the deceased shall have contracted in the country; for which purpose the creditors shall have a right to attach the said effects in their hands, as they might in those of any other individual whatever, and proceed to obtain sale of them till payment of what shall be lawfully due to them. When the debts shall not have been contracted by judgment, deed, or note, the signature whereof shall be known, payment shall not be ordered but on the creditor's giving sufficient surety, resident in the country, to refund the sums he shall have unduly received, principal, interest, and costs; which surety, nevertheless, shall stand duly discharged after the term of one year in time of peace and of two in time of war, if the demand in discharge cannot be formed before the end of this term against the heirs who shall present themselves.

And in order that the heirs may not be unjustly kept out of the effects of the deceased, the consuls and vice consuls shall notify his death in some

one of the gazettes published within their consulate, and that they shall retain the said effects in their hands four months to answer all demands which shall be presented; and they shall be bound after this delay to deliver to the persons succeeding thereto, what shall be more than sufficient for the demands which shall have been formed.

ARTICLE 6

The consuls and vice consuls respectively shall receive the declarations, protests, and reports of all captains and masters of their respective nation on account of average losses sustained at sea; and these captains and masters shall lodge in the chancery of the said consuls and vice consuls, the acts which they may have made in other ports on account of the accidents which may have happened to them on their voyage. If a subject of the Most Christian King and a citizen of the United States, or a foreigner, are interested in the said cargo, the average shall be settled by the tribunals of the country and not by the consuls or vice consuls; but when only the subjects or citizens of their own nation shall be interested, the respective consuls or vice consuls shall appoint skilful persons to settle the damages and average.

ARTICLE 7

In cases where, by tempest or other accident, French ships or vessels shall be stranded on the coasts of the United States, and ships or vessels of the United States shall be stranded on the coasts of the dominions of the Most Christian King, the consul or vice consul nearest to the place of shipwreck shall do whatever he may judge proper, as well for the purpose of saving the said ship or vessel, its cargo, and appurtenances, as for the storing and the security of the effects and merchandise saved. He may take an inventory of them, without the intermeddling of any officers of the military, of the customs, of justice, or of the police of the country, otherwise than to give to the consuls, vice consuls, captain, and crew of the vessel shipwrecked or stranded, all the succor and favor which they shall ask of them, either for the expedition and security of the saving and of the effects saved, as to prevent all disturbance.

And in order to prevent all kind of dispute and discussion in the said cases of shipwreck, it is agreed that when there shall be no consul or vice consul to attend to the saving of the wreck, or that the residence of the said consul or vice consul (he not being at the place of the wreck) shall be more distant from the said place than that of the competent judge of the country, the latter shall immediately proceed therein, with all the dispatch, certainty, and precautions prescribed by the respective laws; but the said territorial judge shall retire on the arrival of the consul or vice consul and shall deliver over to him the report of his proceedings, the expenses of which the consul or vice consul shall cause to be reimbursed to him, as well as those of saving the wreck.

The merchandise and effects saved shall be deposited in the nearest custom-house, or other place of safety, with the inventory thereof, which shall have been made by the consul or vice consul, or by the judge who shall have proceeded in their absence, that the said effects and merchandise may be afterwards delivered (after levying therefrom the costs) and without form of process, to the owners, who, being furnished with an order for their delivery from the nearest consul or vice consul, shall reclaim them by themselves, or by their order, either for the purpose of reexporting such merchandise, in which case they shall pay no kind of duty of exportation, or for that of selling them in the country, if they be not prohibited there, and in this last case the said merchandise, if they be damaged, shall be allowed an abatement of entrance duties proportioned to the damage they have sustained, which shall be ascertained by the affidavits taken at the time the vessel was wrecked or struck.

ARTICLE 8

The consuls or vice consuls shall exercise police over all the vessels of their respective nations and shall have on board the said vessels all power and jurisdiction in civil matters, in all the disputes which may there arise; they shall have an entire inspection over the said vessels, their crew, and the changes and substitutions there to be made, for which purpose they may go on board the said vessels whenever they may judge it necessary. Well understood that the functions hereby allowed shall be confined to the interior of the vessels, and that they shall not take place in any case which shall have any interference with the police of the ports where the said vessels shall be.

ARTICLE 9

The consuls and vice consuls may cause to be arrested the captains, officers, mariners, sailors, and all other persons, being part of the crews of the vessels of their respective nation, who shall have deserted from the said vessels, in order to send them back and transport them out of the country; for which purpose the said consuls and vice consuls shall address themselves to the courts, judges, and officers competent, and shall demand the said deserters in writing, proving by an exhibition of the registers of the vessel or ship's roll that those men were part of the said crews; and on this demand so proved (saving, however, where the contrary is proved) the delivery shall not be refused; and there shall be given all aid and assistance to the said consuls and vice consuls for the search, seizure, and arrest of the said deserters, who shall even be detained and kept in the prisons of the country, at their request and expense, until they shall have found an opportunity of sending them back. But if they be not sent back within three months, to be counted from the day of their arrest, they shall be set at liberty and shall be no more arrested for the same cause.

ARTICLE 10

In cases where the respective subjects or citizens shall have committed any crime or breach of the peace, they shall be amenable to the judges of the country.

ARTICLE 11

When the said offenders shall be a part of the crew of a vessel of their nation and shall have withdrawn themselves on board the said vessel, they may be there seized and arrested by order of the judges of the country. These shall give notice thereof to the consul or vice consul, who may repair on board if he thinks proper; but this notification shall not in any case delay execution of the order in question. The persons arrested shall not afterwards be set at liberty until the consul or vice consul shall have been notified thereof; and they shall be delivered to him, if he requires it, to be put again on board of the vessel on which they were arrested, or of others of their nation, and to be sent out of the country.

ARTICLE 12

All differences and suits between the subjects of the Most Christian King in the United States, or between the citizens of the United States within the dominions of the Most Christian King, and particularly all disputes relative to the wages and terms of engagement of the crews of the respective vessels, and all differences, of whatever nature they be, which may arise between the privates of the said crews, or between any of them and their captains, or between the captains of different vessels of their nation, shall be determined by the respective consuls and vice consuls, either by a reference to arbitrators or by a summary judgment, and without costs.

No officer of the country, civil or military, shall interfere therein or take any part whatever in the matter; and the appeals from the said consular sentences shall be carried before the tribunals of France or of the United States, to whom it may appertain to take cognizance thereof.

ARTICLE 13

The general utility of commerce having caused to be established within the dominions of the Most Christian King particular tribunals and forms for expediting the decision of commercial affairs, the merchants of the United States shall enjoy the benefit of these establishments; and the Congress of the United States will provide, in the manner the most conformable to its laws, for the establishment of equivalent advantages in favor of the French merchants, for the prompt dispatch and decision of affairs of the same nature.

ARTICLE 14

The subjects of the Most Christian King and citizens of the United States who shall prove by legal evidence that they are of the said nations respectively,

shall in consequence enjoy an exemption from all personal service in the place of their settlement.

ARTICLE 15

If any other nation acquires, by virtue of any convention whatever, a treatment more favorable with respect to the consular preeminences, powers, authority, and privileges, the consuls and vice consuls of the Most Christian King or of the United States reciprocally shall participate therein, agreeable to the terms stipulated by the second, third, and fourth articles of the Treaty of Amity and Commerce concluded between the Most Christian King and the United States.

ARTICLE 16

The present convention shall be in full force during the term of twelve years, to be counted from the day of the exchange of ratifications, which shall be given in proper form and exchanged on both sides within the space of one year, or sooner if possible.

In faith whereof we, Ministers Plenipotentiary, have signed the present convention and have thereto set the seal of our arms.

Done at Versailles the fourteenth of November, one thousand seven hundred and eighty-eight.

TH. JEFFERSON	[SEAL]
L. C. DE MONTMORIN	[SEAL]